

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Canciamilla Analyst: LuAnna Hass Bill Number: AB 192
Related Bills: See Legislative History Telephone: 845-7478 Introduced Date: 02-07-2001
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Bodies/Open Meetings

SUMMARY

This bill would make various revisions to the existing Bagley-Keene Open Meeting Act, including, but not limited to:

- defining the term “meeting”;
- requiring a posted agenda for all teleconference meetings; and
- requiring a notice posted on the Internet when a state body intends to take action on items not included on a posted agenda.

PURPOSE OF THE BILL

The author’s office has indicated that the purpose of this bill is to make the Bagley-Keene Open Meeting Act, which pertains to meetings of state bodies, substantially the same as the Brown Act, which pertains to meetings of local government bodies.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2002, and apply on and after that date.

POSITION

Pending.

ANALYSIS

STATE LAW

The Brown Act is a set of laws that that pertain to all meetings of local government bodies.

The Bagley-Keene Open Meeting Act consists of a similar set of laws for state bodies. These laws include a requirement that all meetings be open and public. The term “meeting” is not explicitly defined. A state body conducting a meeting is required to:

- provide an agenda and specified notice of its public meetings at least 10 days in advance of the meeting;

Board Position:

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Department Director

Date

Gerald H. Goldberg

3/22/01

- declare the reason for a closed session prior to the closed session and cite the specific statutory authority for the closed session; and
- report, at a subsequent public meeting, any action or roll call vote to appoint, employ, or dismiss a public employee made during a closed session.

THIS BILL

This bill would make various changes to the Bagley-Keene Open Meeting Act. These changes include, but are not limited to:

- consolidating the definitions of “state body” into a single section;
- adding to the definition of “state body” state boards, commissions, or similar multimember bodies of the state that are created by statute;
- requiring an agenda to be posted at all teleconference locations for a teleconference meeting or proceeding;
- requiring an agenda for any meeting to include a brief description of the items to be discussed in an open or closed session; and
- requiring a notice to be posted on the Internet when a state body intends to take action on an item not included on a posted agenda due to an emergency situation or the need arises to take immediate action.

Under this bill, the term “meeting” would be defined as any state body gathering with a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item within their subject matter jurisdiction. This bill would prohibit the use of direct communication, personal intermediaries, or technological devices by members of the state body to develop a collective concurrence on an action to be taken on an item at a noticed meeting. This bill lists various scenarios where a majority of the members of a state body may be in attendance and not be considered attending a “meeting,” so long as the members of the state body do not discuss among themselves specific business under their jurisdiction. These scenarios include those that are:

- An individual contact between a state body member and any other person.
- A conference or similar gathering to discuss issues of general interest that is open to the public.
- An open and publicized meeting organized by someone other than the state body to discuss state concerns.
- An open and noticed meeting of another state body or a legislative body of a local agency.
- A purely social or ceremonial occasion.
- An open and noticed meeting of a standing committee of a state body, so long as members of the state body who are not members of the standing committee attend only as observers.

This bill also would clarify certain terms and correct various cross-references.

IMPLEMENTATION CONSIDERATIONS

This bill would require some changes to the coordination of FTB meetings, which could be implemented without significant difficulties.

LEGISLATIVE HISTORY

SB 1803 (Ayala, 1995/1996) would have revised the Bagley-Keene Open Meeting Act and was vetoed by the Governor. The veto message stated it was neither necessary nor desirable to conform Bagley-Keene to the Brown Act as the nature of the matters handled by both bodies differs.

SB 95 (Ayala, Ch. 97, Stats. 949) was similar to SB 1803, although it did not adopt all of the provisions to conform Bagley-Keene to the Brown Act.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

ARGUMENTS/POLICY CONCERNS

This bill requires an agenda to be posted at each meeting or proceeding conducted by teleconference. The agenda and notice of meeting must identify each teleconference location. Current law requires at least one member of the state body to be physically present at each teleconference location. Since FTB consists of only three members, no more than three locations could be scheduled for any single teleconference meeting.

LEGISLATIVE STAFF CONTACT

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